

### **Remarks**

Favorable consideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The non-final Office Action dated March 15, 2004, indicated that claims 25-33 and 36-38 would be allowable if rewritten in independent form; and claims 21-24, 34, 35 and 39 are rejected under 35 U.S.C. § 103(a) over Korszun (U.S. Patent No. 5,680,528) in view of Toohey (U.S. Patent No. 6,405,176).

Applicant appreciates the indication of allowability for claims 25-33 and 36-38. Accordingly, claims 25 and 36 have been amended to include limitations of their respective underlying claims; therefore, claims 25-33 and 36-38 are now believed to be in condition for allowance. Applicant requests that the objection to these claims be removed.

Applicant respectfully traverses the Section 103(a) rejection because the Office Action fails to present a combination of references that corresponds to the claimed invention. The Office Action fails to identify teachings in either of the cited references which correspond to the claimed passing of images from different article-provider sites for view by an on-line viewer via a web link to a host-site. As acknowledged by the Office Action at page 2, the '528 reference fails to teach web access to different article provider sites. Further, the Office Action does not allege any such passing of articles being taught or suggested by the '176 reference. The '176 reference merely teaches collecting purchase data for any selected items in a virtual ledger. No images of the items are passed via a web link to a host-site, as claimed. Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejection is improper and cannot be maintained. Applicant accordingly requests that the rejection be withdrawn.

Moreover, the proposed modification of the '528 reference is improper because the combination of the cited references would frustrate the operation and purpose of the '528 reference. The MPEP states that when a proposed modification would render the teachings being modified unsatisfactory for their intended purpose, there is no suggestion or motivation to make the proposed modification under 35 U.S.C. § 103(a). *See* MPEP § 2143.01. The '528 reference is directed to a digital dressing room having a single, specially prepared database of digital images of garments for trying on. A fundamental

feature of the system is the preprocessing of the images prior to final inclusion in the database. *See* col. 9, lines 1-4. Due to the importance of capturing the garment images in a manner that will facilitate future layering, the images are aligned to all other images in the database and every image must be provided with a unique stencil. *See* col. 9, lines 36-38 and 60-65. The Office Action suggests replacing this specially prepared database with the different web sites of the '176 reference. Such a replacement would undermine the operation of the '528 system because the '176's different web sites are not preprocessed in the manner required by the '528 system. Thus any garment images from these different web sites would not be properly aligned thereby preventing them from being usable in the '528 system. The proposed combination would fail to access usable images for the '528 system thus rendering the combination improper. Accordingly, Applicant requests that the rejection be withdrawn.

Please charge Deposit Account No. 50-0996 (JARB.003PA) the small-entity fee of \$86.00 for the two additional independent claims. Please also charge/credit said account any additional fees/overages required to complete this filing.

In view of the remarks above, Applicant believes that each of the claims is in condition for allowance. Should there be any remaining issues that could be addressed over the telephone, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

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By: \_\_\_\_\_

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